

STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Case Type: Condemnation

City of Bloomington, a municipal corporation under
Minnesota Law,

Court File No. 27-CV-13-15904
Judge: The Honorable Susan Robiner

Petitioner,

vs.

STIPULATION OF SETTLEMENT
Parcel 6

Rivercrest Townhome Association, Inc., et al., ,

Respondents.

THIS STIPULATION is made by and between Petitioner City of Bloomington (“City”) and Respondents Richard R. Soderstrom and Lois K. Nordsletten aka Lois K. Nordsletten-Soderstrom, husband and wife (“Owners”).

RECITALS

1. The following recitals are a part of the parties’ stipulation.
2. The Owners are the fee owners of the real property identified as Parcel 6 on Exhibit A to the court order approving the City’s Petition. A copy of said Exhibit A is attached and incorporated herein.
3. Wells Fargo Bank, N.A., holds a mortgage on Parcel 6.
4. Antonio Tripodi and Sheri Tripodi are tenants on Parcel 6.
5. The City commenced this condemnation action to acquire a temporary construction easement over portions of Parcel 6 as described in Exhibit A for the purposes of constructing the Hyland Multi-Modal Trail (“Project”).
6. The City has deposited the sum of \$200.00 with the Hennepin County District Court, in payment of its approved appraisal of value for the damages to Parcel 6 (“Deposit”).

7. The City and the Owners have reached a full and final settlement and compromise of the matters in dispute.

AGREEMENT

NOW, THEREFORE, in consideration of their mutual promises and other good and valuable consideration, it is hereby stipulated and agreed between the parties as follows:

1. Stipulation to Commissioners' Award. The City and the Owners agree to the issuance by the court-appointed commissioners herein of an award of damages for Parcel 6 in the total amount of \$200.00 ("Settlement Amount") which is payable entirely to the Owners, and with zero dollars payable to all other respondents, in substantially the form attached hereto as *Exhibit 1* ("Stipulated Award"). The City and the Owners jointly request the Stipulated Award and will not appeal the Stipulated Award. This settlement agreement is contingent upon the filing of the Stipulated Award, and upon the expiration of the statutory appeal period without any appeal. In the event the court-appointed commissioners fail to issue the Stipulated Award, or in the event any other party appeals, this Stipulation of Settlement shall be null and void.

2. Payment. Within 10 business days after the expiration of the statutory period to appeal from the Stipulated Award, without an appeal, the City shall pay the Settlement Amount.

3. Deposit. The Owners assign to the City all their right, title and interest in the Deposit. The City may apply to the Court at any time for disbursement to the City of the Deposit, together with any interest that has accrued thereon, without further notice to the Owners. The City and the Owners agree to the entry of a Court order directing disbursement to the City alone of the \$200.00 Deposit, together with any interest that has accrued thereon.

4. Other Considerations. The parties agree to the following additional terms:

- a. The City will remove three trees on or adjacent to Parcel 6 as shown in *Exhibit 2* attached hereto and incorporated herein. Upon request of the Owners, the City will

plant three trees as replacement within Parcel 6 at a location selected by the Owners by November 15, 2014. Owners will select the type of replacement trees from the types of trees already specified for the Project. Owners shall grant the City right of entry onto Parcel 6 for purposes of planting the replacement trees.

- b. The Owners acknowledge that they will not have to relocate as a result of the Project.
- c. The Owners acknowledge that they did not obtain an appraisal.

5. Full and Final Compromise. The Owners and the City acknowledge that the terms and conditions of this Stipulation of Settlement constitute a full and final compromise of all matters in dispute with respect to Parcel 6. In consideration of the Settlement Amount and other terms and conditions of this Stipulation of Settlement, the Owners waive any and all claims they may have against the City in connection with this condemnation action, including without limitation, just compensation, statutory remedies, any other damages, interest, relocation benefits, appraisal fees, attorney fees, and costs and disbursements to which the Owners may otherwise be entitled. The Owners waive any and all rights to further notices, viewings, or hearings regarding this action, including without limitation the commissioners' hearing at which this Settlement Stipulation is presented.

8. Condemnation Action. After issuance of the Stipulated Award and expiration of the statutory appeal period, the City will file a Final Certificate in this action with respect to Parcel 6, and record a discharge of lis pendens with respect to Parcel 6 in the Office of the Hennepin County Registrar. Each of the parties will bear its own costs in connection with this action. The district court shall retain jurisdiction to enforce the terms of this Stipulation of Settlement.

9. Entire Agreement. The undersigned state and represent that they have fully read this Stipulation of Settlement, and that they each know and understand the consequences and legal effect

thereof. This Stipulation of Settlement contains the entire agreement of the parties with regard to the matters set forth herein.

10. Execution. The parties agree that this Stipulation of Settlement may be executed in separate counterparts which, taken together, shall be and comprise one agreement.

11. Authority. The persons signing this Stipulation of Settlement in their representative capacities represent and warrant by signing this Agreement that it is their intent to bind their respective principals to the terms and conditions set forth herein, that the persons signing in their representative capacity have been authorized to bind their respective principals to such terms, and that it is the respective principals' intent to be so bound.

Dated:_____

OWNERS

By:_____

Richard R. Soderstrom

By:_____

Lois K. Nordsletten

Dated:_____

CITY OF BLOOMINGTON

By: _____

Its Mayor

By: _____

Its City Manager

Reviewed and approved

City Attorney

Dated: _____

KENNEDY & GRAVEN, CHARTERED

By: _____

Peter G. Mikhail (# 249907)

Robert J. Lindall (#63277)

470 U.S. Bank Plaza

200 South Sixth Street

Minneapolis, MN 55402

(612) 337-9300

ATTORNEYS FOR PETITIONER

CITY OF WEST ST. PAUL

EXHIBIT A

Parcel No. 6: Property I.D. No. 06-115-21-12-0003 Torrens Certificate No. 1018919

Property Address: 11110 Bloomington Ferry Road, Bloomington, MN 55438

Description of Subject Property:

That part of the Northwest Quarter of the Northeast Quarter of Section 6, Township 115, Range 21, Hennepin County, Minnesota, described as commencing at a judicial landmark set at the northeast corner of that certain tract of land registered in Torrens Case No. 4409; thence West along the north line of the said above mentioned tract of land a distance of 172.4 feet, said north line being marked by judicial landmarks set pursuant to Torrens Case No. 4409; thence North 7 degrees 45 minutes East (assuming said above mentioned north line as bearing East and West) a distance of 347.23 feet to the actual point of beginning, which point is marked by a judicial landmark; thence continuing North 7 degrees 45 minutes East a distance of 32.27 feet to a point marked by a judicial landmark; thence continuing North 7 degrees 45 minutes East a distance of 88.83 feet to a point marked by a judicial landmark; thence South 89 degrees 49 minutes East a distance of 179.17 feet to the westerly line of County Road No. 18 and to a point marked by a judicial landmark; thence southerly along the westerly line of said road to a point on a line bearing South 89 degrees 49 minutes East distant 215.36 feet from the actual point of beginning, which point on said line is marked by a judicial landmark; thence North 89 degrees 49 minutes West a distance of 215.36 feet to the actual point of beginning. Said judicial landmarks, other than those set in Torrens Case No. 4409, mark the north, west and south boundaries of the above described tract and were set pursuant to Torrens Case No. 14783.

Description of easements to be taken:

A temporary easement for construction purposes over, under, across and through that part of the Property lying easterly of the following described line. The line is described as follows:

Beginning at a point on the north line of the Property, distant 2.01 feet westerly from the northeast corner of said parcel; thence southeasterly a distance of 22.17 feet along a non-tangential curve concave to the northeast having a radius of 916.48 feet, a central angle of 01 degrees 23 minutes 10 seconds, and the chord of said curve is 22.17 feet in length and bears South 06 degrees 56 minutes 57 seconds East; thence South 82 degrees 21 minutes 28 seconds West a distance of 8.00 feet; thence southeasterly a distance of 36.33 feet along a non-tangential curve concave to the northeast having a radius of 924.48 feet, a central angle of 02 degrees 15 minutes 06 seconds, and the chord of said curve is 36.33 feet in length and bears South 08 degrees 46 minutes 05 seconds East; thence North 80 degrees 06 minutes 22 seconds East to the west right of way line of Bloomington Ferry Road, and there terminating.

Said temporary easement shall begin on May 5, 2014 and expire on November 15, 2014.

Said temporary easement contains 405 square feet, more or less.

Subject to easements of record, except as taken herein.

Interests being encumbered within the taking areas described above:

NAME	NATURE OF INTEREST
Richard R. Soderstrom and Lois K. Nordsletten aka Lois K. Nordsletten-Soderstrom, husband and wife	Fee Owner
Wells Fargo Bank, National Association, a national banking association	Mortgagee
Antonio Tripodi and Sheri Tripodi, husband and wife	Tenant
All other parties unknown, together with unknown successors, assigns, heirs, devisees and spouses, if any	Any right, title or interest within the acquired portion of the Subject Property

Notwithstanding the foregoing attempt to identify all interests held by a party named herein, it is Petitioner's intention to acquire or encumber all interests owned or claimed by the named respondents in the Subject Property within the taking areas described above.

EXHIBIT 1 – Stipulated Award

STATE OF MINNESOTA

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AWARD OF COMMISSIONERS
Parcel 6

Rivercrest Townhome Association, Inc., et al., ,

Respondents.

The undersigned commissioners, appointed by the above-named Court, having qualified according to law, hereby make the following award of damages with respect to the Petitioner's Taking from Parcel 6 in the above-captioned matter, as of December 13, 2013, which is the date of taking, including interest accrued:

TO: Richard R. Soderstrom and Lois K. Nordsletten aka Lois K. Nordsletten-Soderstrom, husband and wife:	<u>\$200.00</u>
TO: Wells Fargo Bank, National Association, a national banking association; Antonio Tripodi and Sheri Tripodi, husband and wife:	<u>\$0.00</u>

TOTAL DAMAGES TO ALL PARTIES:	\$200.00
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This award of damages is made after notice of viewing, notice of hearing, and an opportunity for possible claimants to be heard, and is based upon the commissioners' viewing of said real estate and the Stipulation of Settlement entered into between the City of Bloomington and Respondents Richard R. Soderstrom and Lois K. Nordsletten aka Lois K. Nordsletten-Soderstrom, which the commissioners received and accepted.

Dated: May _____, 2014.

Marilyn J. Michales, Commissioner

Craig M. Harrington, Commissioner

Harvey G. Swenson, Commissioner

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Notwithstanding the foregoing attempt to identify all interests held by a party named herein, it is Petitioner's intention to acquire or encumber all interests owned or claimed by the named respondents in the Subject Property within the taking areas described above.

EXHIBIT 2 – Tree Removal Graphic